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Americans for Prosperity

4-100-47105-100A-4

Moreover, the second supplemental complaint, like the previous complaints, is legally deficient and must be dismissed because it fails to clearly and concisely recite any facts that constitute a violation of the Act or Commission regulations.¹ The Commission has already made clear that simple speculation by a complainant is insufficient and does not establish that there is reason to believe a violation occurred. MUR 5467 (Michael Moore), First General Counsel's Report at 5 ("Purely speculative charges, especially when accompanied by a direct refutation, do not form the adequate basis to find reason to believe that a violation of [the Act] has occurred." (quoting MUR 4960 Statement of Reasons at 3)). Due process and fundamental fairness dictate that the burden must not shift to a respondent merely because a complaint is filed with the

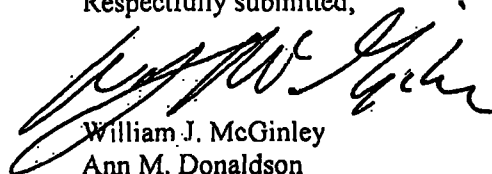
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Commission. See MUR 4850 (Deloitte & Touche, LLP), Statement of Reasons of Chairman Darryl R. Wold and Commissioners David M. Mason and Scott E. Thomas at 2 (rejecting the Office of General Counsel's recommendation to find reason to believe because the respondent did not specifically deny conclusory allegations, and holding that "[a] mere conclusory allegation without any supporting evidence does not shift the burden of proof to the respondents.").

The Complaints in the instant matter are a dishonest attempt to shift the burden to the Respondents through the use of innuendo and conjecture. They make spurious claims that are not supported by the factual allegations contained in the Complaints and their legal theories do not satisfy the Commission's regulatory requirements to support a reason to believe finding. *Machinists Non-partisan Political Action Comm. v. FEC*, 655 F.2d 380, 388 (D.C. Cir. 1981) ("[M]ere 'official curiosity' will not suffice as the basis for FEC investigations").

For all of the reasons stated above, there is no factual or legal basis for finding reason to believe a violation was committed by AFP. Accordingly, we respectfully request that the Commission dismiss the Complaint against AFP, close the file, and take no further action.

Respectfully submitted,



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